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ABSTRACT

The O. J. Simpson trials taught much of the United States a basic lesson in the difference between criminal law and civil law. Many students learn in their government classes that a person cannot be tried twice for the same crime. A person found innocent in a criminal trial, however, can be sued under civil law procedures for damages. It is possible, then, to have the two trials reach very different conclusions, as was seen with the Simpson cases. In part, this is because there is a greater burden of proof with criminal cases than with civil cases. In this lesson plan, students learn some of the fundamental distinctions between civil and criminal law through analyzing newspaper articles that deal with the two types of cases. Students attempt to correct a fictional news article about a criminal case. The lesson plan provides an overview, educational objectives, links to both civics and social studies standards, materials needed, handouts, and step-by-step classroom procedures. (BT)

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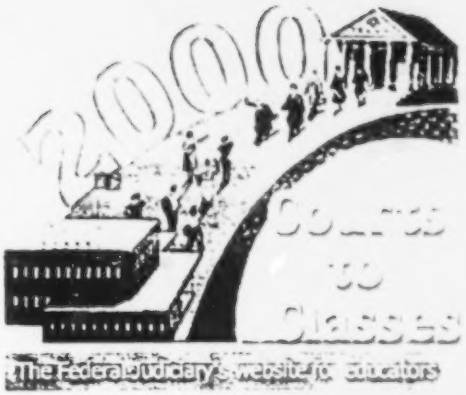

The Distinction Between Civil and Criminal Law

A Lesson Plan for High School Law-Related Educators to support "Understanding the Federal Courts"

SO 032 464

The Administrative Office of the U.S. Courts
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The Distinction Between Civil and Criminal Law

Content Areas: U.S. Government, Law

Grades: 9-12

Time
45 minutes

Overview

The O.J. Simpson trials taught much of America a basic lesson in the difference between criminal and civil law. Many students learn in their government classes that a person cannot be tried twice for the same crime. This right comes from the Fifth Amendment which states that "[n]o person shall...be subject for the same offence to be twice put in jeopardy of life or limb..." However, a person found innocent in a criminal trial can be sued under civil law procedures for damages. It is possible, then, to have the two trials reach very different conclusions, as we saw with the O.J. Simpson cases. In part, this is because there is a greater burden of proof with criminal cases than with civil cases. In this lesson, students learn some of the fundamental distinctions between civil and criminal law through analyzing newspaper articles that deal with the two types of cases. They then attempt to correct a fictional news article about a criminal case.

Objectives

At the end of the lesson, students will be able to:

- Analyze news reports of court actions
- Distinguish between civil and criminal law
- Apply their understanding of civil and criminal law to correct a hypothetical news report.

Link to National Standards for Civics and Government

Content Standard III (D) 1. The place of law in American society. Students should be able to evaluate, take, and defend positions on the role and importance of law in the American political system.

Link to National Council for the Social Studies Standards

Power, Authority, and Governance

Social studies programs should include experiences that provide for the study of how people create and change structures of power, authority, and governance.

Materials

Student Handout 1: News Reports of Civil and Criminal Court Cases (to be chosen by teacher)

Student Handout 2: Focus Questions to Accompany News Articles

Overhead Transparency 1: Major Differences between Civil Law and Criminal Law

Student Handout 3: Edit a News Report!

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Procedure

1.

Before the lesson, search for several articles about criminal and civil court cases that may interest to students. Many school media centers have computerized access to news articles, for example, through ProQuest or NewsBank. By typing in the keywords "beyond a reasonable doubt" and "preponderance of evidence" it should be easy to find articles that allow students to answer the questions in the handout described below. It should take about 20-25 minutes to find appropriate articles (bibliographical information on three appropriate articles appears in the resources section of this lesson). Photocopy at least one article for each type of case. These articles will be given to students as a set activity along with the focus questions in Student Handout 2 to help them understand the differences between the two types of cases. Use the questions in Student Handout 2 to guide your selection of articles. Students should be able to answer the questions in the handout from the articles you give them.

2.

Distribute Student Handout 1: News Reports of Civil and Criminal Court Cases (to be chosen by teacher). Also distribute Student Handout 2: Focus Questions to Accompany News Articles.

Explain to students that they are going to read news reports about two different types of court cases and answer a few questions that will help them understand the difference between the two cases. Ask students to read the two articles and to answer the focus questions. You may want to read the articles aloud and answer the questions together as a class. Another option is to have students read the articles silently and then work in pairs to answer the questions. Don't explain the difference between civil and criminal law yet; the point is to have students discover the difference by examining the stories.

3.

When students have read the two articles and answered the questions, discuss the two articles with the students. You might begin the discussion by asking students to summarize or generalize about the differences between the cases described in the two articles. Use follow-up questions to quickly review the differences in the cases captured by the focus questions. Guide students' responses to the ones below. You may want to show students an overhead projection (Overhead Transparency 1: Major Differences Between Civil Law and Criminal Law) to help them note the differences between civil and criminal cases. Their answers likely will be more specific than the ones listed on the overhead transparency, but help students understand how the information they gleaned from the specific case they read is related to the generalizations about civil and criminal cases on the transparency.

	News Article 1 (civil case)	News Article 2 (criminal case)
Who are the parties involved in the case? Circle the party who is bringing the case to court.	Private individuals	The government (federal, state, or local)
Describe the issue that the court must decide (what is the nature of the case?).	Court must determine whether one party has caused harm to another party; case deals with rights and duties between individuals	Court must determine whether one party has violated a statute that prohibits some type of activity; case deals with offenses against society as a whole
What is the penalty or remedy being sought in the case?	Damages (monetary or other) to compensate for the loss sustained	Punishment, deterrence, rehabilitation to preserve the peace
What must the person bringing the case prove to win? (burden of proof)	That a preponderance of evidence supports the claim	That the person is guilty beyond a reasonable doubt

4.

When the distinctions between the two cases have been made clear through discussion or the overhead transparency, ask students the following focus question:

"Why do criminal cases require a higher burden of proof than civil cases?"

Students' responses to this question may vary, but use your discussion with them to point out that the judicial system requires a higher burden of proof because the remedy for violation of criminal laws often requires taking away the fundamental rights of life, liberty, or property. The government may only take away these rights in extraordinary circumstances and only with absolute proof that a person has violated criminal statutes.

5.

When students appear to understand the distinction between civil and criminal cases, distribute Student Handout 3: Edit a News Report! Ask students to imagine that they are news editors and must correct a story written by a rookie reporter that doesn't understand the difference between criminal and civil law. Students should use the space between the lines to write their corrections. If there is no time to do this assignment during class, ask students to complete the assignment for homework.

6.

When students have completed their corrections, review the story with them checking their understanding of key differences between a civil and criminal case.

Alternative Homework Assignment

Briefly discuss the concept of double jeopardy with students. Distribute a news article that discusses the O.J. Simpson civil and criminal trials. Have students write a brief paragraph in response to the article that explains why holding both a civil and criminal trial does not constitute double jeopardy. For a more difficult writing assignment, ask students to write about whether the filing of a civil case against a defendant after a failed criminal trial is an abuse of the legal system. The news article "Civil Trials: Double jeopardy or late justice?" by Andrew Spano of *The Eagle-Tribune* (Lawrence, MA), February 16, 1997

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provides great background information and examples for this controversial question. This article can be found through the NewsBank database.

Resources

The following news articles illustrate the differences between civil and criminal law and can be found through NewsBank and likely through other databanks:

- Baird, Woody, "Conspiracy Found in King Killing," *Associated Press News Service*, December 9, 1999.
- Hays, Tom, "NYC Cops Charged in Shooting Death," *Associated Press News Service*, April 1, 1999.
- Spano, Andrew, "Civil Trials: Double jeopardy or late justice?" *The Eagle-Tribune* (Lawrence, MA), February 16, 1997.

TO BE PROVIDED BY TEACHER

Student Handout 2
Focus Questions to Accompany News Articles

Read the news articles your teacher has distributed. Fill out the chart below to help you understand the differences between the two cases in the articles.

	News Article 1 (Civil)	News Article 2 (Criminal)
Who are the parties involved in the case? Circle the party who is bringing the case to court. What are the legal terms used to identify the two parties?		
Describe the issue that the court must decide (what is the nature of the case?).		
What is the penalty or remedy being sought in the case?		
What must the person bringing the case prove to win? (burden of proof)		

Overhead Transparency 1
Major Differences between Civil Law and Criminal Law

	News Article 1 (Civil)	News Article 2 (Criminal)
Who are the parties involved in the case? Circle the party who is bringing the case to court. What are the legal terms used to identify the two parties?	Private individuals *Plaintiff* files the case *Defendant* responds	The government (federal, state, or local) *Prosecutor* files the case *Defendant* responds
Describe the issue that the court must decide (what is the nature of the case?).	Court must determine whether one party has caused harm to another party; case deals with rights and duties between individuals	Court must determine whether one party has violated a statute that prohibits some type of activity; case deals with offenses against society as a whole
What is the penalty or remedy being sought in the case?	Damages (monetary or other) to compensate for the loss sustained	Punishment, deterrence, rehabilitation to preserve the peace
What must the person bringing the case prove to win? (burden of proof)	That a preponderance of evidence supports the claim	That the person is guilty beyond a reasonable doubt

Imagine that you are an editor for a newspaper. A rookie reporter has just turned in a news article about a **criminal trial** for you to edit before the paper goes to print. Unfortunately, this reporter doesn't seem to understand the difference between civil and criminal trials and has made many mistakes in the story. Edit this news report using what you know about the difference between the two types of trials.

Trial Begins for Local Woman Accused of License Scam

By Joe Shmoe
Anytown Times Staff Writer

The trial of a local woman accused of collaborating with others to create false drivers' licenses moved ahead today with opening statements by the lawyers for the plaintiff and defendant.

Jane Doe was arrested last year after police were alerted to suspicious activity at the Department of Motor Vehicles (DMV). Ms. Doe, 23, and several others accused in the conspiracy, allegedly came into the DMV numerous times to replace their drivers' licenses. They claimed that their licenses had been stolen or lost each time, but the employees became suspicious when the visits by Ms. Doe and others became more frequent. The police were alerted and, after conducting interviews with friends of the accused, arrested Ms. Doe and several others on suspicion of distributing fake identification.

One of the employees at the DMV, Ms. Smith, filed the criminal case against Ms. Doe and the others. She is seeking an unspecified amount of cash damages for herself and others at the DMV in the suit. There is some question, however, about whether Ms. Smith's case will be successful. The police have not been able to find anyone who possesses the drivers' licenses that Ms. Doe and others allegedly lost. This may make it difficult for the jury to convict Ms. Doe because, in a criminal trial, the preponderance of evidence must prove the defendant guilty of a crime.

The trial will resume tomorrow with the plaintiff's attorney calling the first witness, Ms. Smith.